

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION

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MICHAEL GORDY

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Plaintiff,

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v.

3:07-CV-985-WKW  
(WO)

SGT. STEVE JOHNSON, *et al.*,

\*

Defendants.

\*

**RECOMMENDATION OF THE MAGISTRATE JUDGE**

Plaintiff filed this 42 U.S.C. § 1983 action on November 2, 2007. When he filed this complaint, Plaintiff was an inmate incarcerated at the Russell County Jail located in Phenix City, Alabama.

On November 20, 2007 the court entered an order of procedure which instructed Plaintiff, among other things, to inform the court of any change in his address. (*Doc. No. 9.*) On June 9, 2008 the envelope containing Plaintiff's copy of an order filed June 2, 2008 was returned to the court marked as undeliverable because Plaintiff was no longer at the address he had provided to the court. Consequently, an order was entered on June 11, 2008 directing Plaintiff to provide the court with his present address on or before June 23, 2008. (*Doc. No. 41.*) Plaintiff was cautioned that his failure to comply with the court's June 11 order would result in a recommendation that this case be dismissed. (*Id.*) The envelope containing Plaintiff's copy of this order was returned to the court on June 17, 2008 marked

“return to sender - attempted not known.”

It is clear that Plaintiff is no longer incarcerated at the Russell County Jail and that he has not provided this court with his current address. The undersigned, therefore, concludes that this case is due to be dismissed.

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that this case be DISMISSED without prejudice for Plaintiff's failures to comply with the orders of the court and to prosecute this action.

It is further

ORDERED that the parties are DIRECTED to file any objections to the said Recommendation on or before **July 7, 2008**. Any objections filed must specifically identify the findings in the Magistrate Judge's Recommendation to which a party objects. Frivolous, conclusive or general objections will not be considered by the District Court. The parties are advised that this Recommendation is not a final order of the court and, therefore, it is not appealable.

Failure to file written objections to the proposed findings and recommendations in the Magistrate Judge's report shall bar the party from a *de novo* determination by the District Court of issues covered in the report and shall bar the party from attacking on appeal factual findings in the report accepted or adopted by the District Court except upon grounds of plain error or manifest injustice. *Nettles v. Wainwright*, 677 F.2d 404 (5<sup>th</sup> Cir. 1982). *See Stein v. Reynolds Securities, Inc.*, 667 F.2d 33 (11<sup>th</sup> Cir. 1982). *See also Bonner v. City of Prichard*, 661 F.2d 1206 (11<sup>th</sup> Cir. 1981)(*en banc*), adopting as binding precedent all of the

decisions of the former Fifth Circuit handed down prior to the close of business on September 30, 1981.

Done, this 24<sup>th</sup> day of June 2008.

/s/ Wallace Capel, Jr.  
WALLACE CAPEL, JR.  
UNITED STATES MAGISTRATE JUDGE